IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 16182 of 2003

Between:

1 P. Rama Krishna, S/o. Suryanarayana,The Adavikolanu Large Sized

Co.operative Society Limited No. E852, Adavikolanu, Nidamarru

Mandal, West Godavari District
2 P. Seshagiri Rao, S/o. Satyanarayana, The Adavikolanu Large Sized

Co.operative Society Limited No. E852, Adavikolanu, Nidamarru

Mandal, West Godavari District
3 A. Yesubabu, S/o. Apparao, The Adavikolanu Large Sized

Co.operative Society Limited No. E852, Adavikolanu, Nidamarru

Mandal, West Godavari District
4 M. Srinivasu, S/o. Rangarao, The Adavikolanu Large Sized

Co.operative Society Limited No. E852, Adavikolanu, Nidamarru

Mandal, West Godavari District
5 P. Apparao, S/o. Satyanarayana, The Adavikolanu Large Sized

Co.operative Society Limited No. E852, Adavikolanu, Nidamarru

Mandal, West Godavari District

... PETITIONERS

AND

1 The Government of Andhra Pradesh, rep. by its Secretary, Agricultural and Co.operation Department, Secretariat, Hyderabad
2 The Commissioner and Registrar of Co.operative Societies, Andhra Pradesh, Hyderabad

3 The Joint Registrar and District Co.operative Officer, West Godavari District, Eluru
4 The Divisional Co.operative Officer, Eluru, West Godavari District.
5 The General Manager, The District Co.operative Central Bank Limited, West Godavari District, Eluru
6 The Adavikolanu Large Sized Co.operative Society Limited No.E852,

Adavikolanu,Nidamarru Mandal, West Godavari District rep. by its Chair-

Person

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ, order or direction declaring the action of the respondents 3 to 5 in directing the 6th respondent to terminate the services of the Employees including the petitioners herein which culminated in the Proceedings RC.No.1728/2002-C dated 12.06.2003 issued by the 4th respondent and proceedings Legal/Irregular Appointments/03-04 dated 24.6.2003 issued by the 5th respondent and the consequential Resolution No. 25 dated 9.7.2003 and the Notices 1/2003 dated 9.7.2003 issued by the 6th respondent herein on the ground that the appointments of the petitioners are contrary to Act 2 of 1994 as illegal, arbitrary, unreasonable, null and void, without jurisdiction and violative of Articles 14, 16 and 21 of the constitution of India and contrary to the A.P.Shops and Establishment Act

Counsel for the Petitioner: MR.A.V.SESHA SAI

Counsel for the Respondents 1 to 4: GP FOR COOPERATION

Counsel for the Respondent No.5: MRS.A.MALATHI

Counsel for the Respondent No.6: MRDADIRADHA KRISHNA

The Court made the following order:

ORDER:

The petitioners question the order of the Divisional Cooperative Officer – 4th respondent dated 12.06.2003 and the consequential proceedings of the General Manager, The District Cooperative Central Bank Limited – 5th respondent dated 24.06.2003 and the consequential resolution of the 6th respondent dated 09.07.2003 as illegal, arbitrary and contrary to Section 116-C of the Andhra Pradesh Cooperative Societies Act (for short 'the Act'), 1964.

The petitioners submit that the District Cooperative Officer in exercise of his delegated powers under Section 116-C (1) of the Act by order dated 18.02.1991 in RC.No.933/91-D approved the staffing pattern, pay and allowance of the 6th respondent society under Section 116-C of the Act. Thereupon revised orders have been passed by the District Cooperative Officer vide his proceedings Roc(Coopn)No.1728/2002-C dated 31.03.2003 approving the revised staffing pattern and pay scales. It is the case of the petitioners that they have been appointed in their respective posts of the approved staffing pattern only and the said approval of staffing pattern is in accordance with Section 116-C of the Act.

But the 4th respondent again issued impugned orders in RC.No.1728/2002-C dated 12.06.2003 stating that the appointment of petitioners and some others after 01.01.1995 is contrary to the ban orders issued in violation of Act 2 of 1994 and therefore their services have to be removed. Accordingly, the 5th respondent passed consequential proceedings 24.06.2003 directing the society to take immediate steps to remove the services of its employees appointed after 01.01.1995 and accordingly, the society also passed resolution to that effect. There is no mention anywhere in any of the orders of the respondents 4 to 6 as to whether the appointment of the petitioners is contrary to the staffing pattern fixed by the society and approved by the Registrar of Cooperative Societies fulfilling the condition that the expenditure incurred on pay and allowance not to exceed 2 per cent of the working capital or 30 per cent of the gross profit in terms of the actuals in a year. As long as the staffing pattern as approved is in conformity with Section 116-C of the Act, the Cooperative

Officers cannot direct the societies to remove the services of its employees on the ground that they were appointed contrary to the ban orders.

I am of the opinion that the said impugned proceedings are contrary to Section 116-C(1) of the Act and ultimately it is for the concerned respondents to reconsider the issue as to whether the appointment of the petitioners is contrary to the Section 116-C(1) of the Act or not and take appropriate action.

Accordingly, the writ petition is allowed setting aside the said orders keeping it open to the respondents to take appropriate action in accordance with Section 116-C(1) of the Act.

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(V. ESWARAIAH, J)

September 7, 2004

Dsk/Kvrm

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Tuesday the Seventh day of September Two thousand and Four.

To

1 The Government of Andhra Pradesh, rep. by its Secretary, Agricultural and Co.operation Department, Secretariat, Hyderabad
2 The Commissioner and Registrar of Co.operative Societies, Andhra Pradesh, Hyderabad
3 The Joint Registrar and District Co.operative Officer, West Godavari District, Eluru
4 The Divisional Co.operative Officer, Eluru, West Godavari District.

5 Two CCs to GP For Cooperation, High Court Buildings, Hyderabad (OUT).

6 Two CD copies.

7 The General Manager, The District Cooperative Society Central Bank

Limited, West Godavari District, Eluru.